

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

RICHARD TERRY BOURNE
PATRICIA SHAFFER BOURNE

CASE NO. 19-bk-00133-KSJ
CHAPTER 7

Debtors.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY
(Surrendered Property)

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

PURSUANT TO LOCAL RULE 2002-4, THE COURT WILL CONSIDER THE RELIEF REQUESTED IN THIS PAPER WITHOUT FURTHER NOTICE OR HEARING UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN TWENTY-ONE (21) DAYS FROM THE DATE SET FORTH ON THE ATTACHED PROOF OF SERVICE, PLUS AN ADDITIONAL THREE DAYS FOR SERVICE IF ANY PARTY WAS SERVED BY U.S. MAIL.

IF YOU OBJECT TO THE RELIEF REQUESTED IN THIS PAPER, YOU MUST FILE A RESPONSE WITH THE CLERK OF THE COURT AT THE GEORGE C. YOUNG FEDERAL COURTHOUSE 400 WEST WASHINGTON STREET, SUITE 5100, ORLANDO, FL 32801 AND SERVE A COPY ON THE MOVANT'S ATTORNEY, GAVIN STEWART, P.O. BOX 5703, CLEARWATER, FL 33758, AND ANY OTHER APPROPRIATE PERSONS WITHIN THE TIME ALLOWED. IF YOU FILE AND SERVE A RESPONSE WITHIN THE TIME PERMITTED, THE COURT WILL EITHER SCHEDULE AND NOTIFY YOU OF A HEARING, OR CONSIDER THE RESPONSE AND GRANT OR DENY THE RELIEF REQUESTED WITHOUT A HEARING.

IF YOU DO NOT FILE A RESPONSE WITHIN THE TIME PERMITTED, THE COURT WILL CONSIDER THAT YOU DO NOT OPPOSE THE RELIEF REQUESTED IN THE PAPER, WILL PROCEED TO CONSIDER THE PAPER WITHOUT FURTHER NOTICE OR HEARING, AND MAY GRANT THE RELIEF REQUESTED.

Specialized Loan Servicing LLC as servicing agent for The Bank of New York Mellon FKA The Bank of New York, as Trustee for the certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-1 ("Movant") seeks, pursuant to 11 U.S.C. §362(d), relief from the automatic stay and states:

1. On December 26, 2006, Debtors, executed and delivered a promissory note and mortgage securing payment of the note in favor of Countrywide Home Loans Inc.

2. Specialized Loan Servicing LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant or Movant's successor or assignee. Movant, directly or through an agent, has possession of the promissory note and has the ability to enforce and foreclose its lien. The note has been duly endorsed and Movant is the assignee of the mortgage. A copy of the promissory note, mortgage, assignment of mortgage and loan modification is attached hereto as Composite Exhibit "A."

3. The mortgage is secured by the following real property located in Brevard County, Florida:

LOT 8, BLOCK 2355, PORT MALABAR UNIT 45, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 22, PAGE 3, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AKA 1031 Roanoke Court NE, Palm Bay, Florida 32907 ("Property")

4. Pursuant to Local Rule 4001-1(c)(1)(C), the following is the default information on the loan as of January 16, 2019: the total debt owed was \$461,505.52 and the loan is due for the January 1, 2013 payment and all subsequent payments.

5. According to the Statement of Intention, Debtors intend to surrender the collateral.

6. According to the Debtors' Schedules, the value of the Property is \$283,000.00.

7. It would be inequitable to allow the Debtors to retain the Property, as there is no equity above the total indebtedness.

8. Furthermore, Movant is not receiving payments to protect against the erosion of its security interest in the Property.

9. If Movant is not permitted to enforce its lien on the Property, it will suffer irreparable injury, loss, and damage.

WHEREFORE, Movant, respectfully requests the Court enter an order:

- a. terminating the automatic stay;
- b. permitting Movant to take any and all steps necessary to exercise any and all rights it may have in the Property described herein; and
- c. granting such other relief that the Court may deem just and proper.

/s/ Gavin N. Stewart
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Counsel for Movant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by CM/ECF notice and first class mail this 21st day of January, 2019.

/s/ Gavin N. Stewart
Gavin N. Stewart, Esquire
Florida Bar Number 52899

VIA FIRST CLASS MAIL

Patricia Shaffer Bourne
Richard Terry Bourne
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VIA CM/ECF NOTICE

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